



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

JUL 6 2011

Colonel Jeffery R. Eckstein
U.S. Army Corps of Engineers
Attn: CEMVK-OD-F
4155 Clay Street
Vicksburg, MS 39183-3435

Dear Colonel Eckstein:

The U.S. Environmental Protection Agency (EPA) has reviewed the Public Notice (PN) concerning the Department of the Army Permit Application Number MVK-2010-1611, submitted for Mr. Jackson B. Davis. The comments provided here are within the EPA's responsibilities associated with the Clean Water Act (CWA) Section 404 and the National Environmental Policy Act.

The PN describes construction of a dam for the creation of a lake for farming and recreation. The dam would result in impoundment of waters of the United States over an area of up to 130 acres. It appears from a search of aerial photography that the dam would be placed on the Sylvest Creek, with its flows eventually reaching the Bayou Pierre and the Red River. The EPA considers these waters to be aquatic resources of national importance.

The PN lists the soils of the area as Guyton and Luka, which are described in the DeSoto Parish Soil Survey as hydric soils. Hydric soils indicate the likely presence of a wetland. However, no official jurisdictional determination by the Department of the Army is included in the PN.

While it appears the dam creation (footprint) would directly impact a small acreage in the stream itself, some 9,000 linear feet of stream would be inundated and some 200 linear feet of stream would be filled for a total stream loss of 9,200 feet.

Compliance with the CWA 404(b)(1) Guidelines requires justification for the "need" for a project that is proposed. No justification is provided for this proposal. A general statement about farming and recreation is made in the PN, however a search of aerial photography discloses no farming operation. We also question why a recreational lake of 130 acres, eight feet deep, would be considered for a remote area such as this.

The EPA has numerous concerns regarding this proposal and is concerned with the adverse impacts on downstream hydrology and reduction of flow that is expected to occur. Fragmentation of the aquatic habitat would be expected to result in fisheries impacts with possible changes in species above and below the dam. Alterations to the

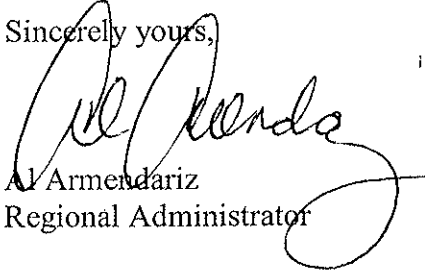
natural stream would also affect wildlife habit and use. The project, if permitted, would add to the many other cumulative effects of alterations to surface and ground waters of the U.S. that have occurred and are occurring in DeSoto Parish. Also, the shallow lake would provide for evaporative loss of surface water in addition to the heavy use by the gas industry in this parish.

The intended use of this proposed project should be investigated thoroughly. Due to its proposed location in the vicinity of several shale gas pads and operations, it has the potential to be used for impounding waters to be sold for hydraulic fracturing to the nearby gas wells. Since this appears to be a possibility, we point out that water supply for such use is not dependent on having water from a free-flowing stream impounded as there are alternatives, such as trucking in water. The applicant should be required to provide a detailed justification of need and comprehensive alternatives analysis. Only the least environmentally damaging practicable alternative can be considered for permitting for a proposal after the proposal is determined to comply with the guidelines.

The EPA requests that this permit application be denied because the project will result in substantial and unacceptable impacts on aquatic resources of national importance in accordance with the Clean Water Act 404(q) Memorandum of Agreement between the EPA and the Department of the Army, Part IV 3(b).

We are available to work with you to address our concerns. Your full consideration of our comments will be appreciated. If you have any questions, please contact me at (214) 665-2100, or your staff may contact Ms. Jeanene Peckham at (214) 665-6411.

Sincerely yours,



Al Armendariz
Regional Administrator

cc: Mr. Brad Rieck, Acting Field Supervisor
U.S. Fish and Wildlife Service

Mr. Jimmy L. Anthony, Assistant Secretary
Louisiana Department of Wildlife and Fisheries